

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF ARIZONA

Pipeline Technologies Incorporated,	)	No. CV-13-02104-PHX-SPL
	)	
Plaintiff,	)	<b>ORDER</b>
vs.	)	
	)	
Telog Instruments Incorporated, et al.,	)	
	)	
Defendants.	)	

Before the Court is Defendants' Motion for Summary Judgment (Doc. 85). Defendants seek summary judgment on the ground that the disputed claims of U.S. Patent 7,219,553 ('553 patent) are invalid for indefiniteness under 35 U.S.C. § 112(b). (Doc. 85 at 1-2.) Specifically, Defendants argue that Claim 1 of the '553 patent is indefinite because it combines two separate statutory classes of invention and therefore fails to particularly claim the subject matter the inventor regards as the invention. (Doc. 85 at 2-4.) Defendants rely on the following portion of Claim 1:

*wherein* the signal processor records data samples showing dynamic transient pressures above a threshold level to internal memory until pressure returns to a steady state or *until the user specifies*.

(Doc. 85 at 3.)

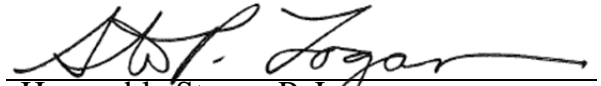
The Court notes that both parties have identified the above-cited phrase as a disputed claim term to be construed by the Court at the *Markman* hearing scheduled on September 30, 2014. (See Doc. 83 at 12-13; Doc. 84.) Further, the parties have filed

1 briefs and a joint claim construction chart setting forth their proposed claim constructions  
2 for the disputed phrase. (Docs. 74, 75, 83.)

3 Given the current posture of this case, Defendants fail to address in their motion  
4 why summary judgment would be appropriate before the parties have had the opportunity  
5 to present their arguments and evidence at the scheduled *Markman* hearing. As the  
6 Court's ultimate construction of the disputed phrase in Claim 1 may have a direct bearing  
7 on Defendants' present arguments regarding invalidity, the Court finds that this motion is  
8 premature and will be denied without prejudice. Accordingly,

9 **IT IS ORDERED** that Defendants' Motion for Summary Judgment (Doc. 85) is  
10 denied without prejudice.

11 Dated this 19th day of August, 2014.

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15 Honorable Steven P. Logan  
16 United States District Judge  
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